

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ESTATE OF JOANN MATOUK ROMAIN  
and MICHELLE MARIE ROMAIN,

Plaintiffs,

v.

Civil Case No. 14-12289  
Honorable Linda V. Parker

CITY OF GROSSE POINTE FARMS,  
et al.

Defendants.

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**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S  
NOVEMBER 22, 2016 REPORT AND RECOMMENDATION (ECF NO.  
252) AND GRANTING DEFENDANT TIMOTHY J. MATOUK'S MOTION  
FOR SPOILIATION SANCTIONS (ECF NO. 202)**

On August 16, 2016, Defendant Timothy J. Matouk ("Matouk") filed a motion for spoliation sanctions under Federal Rule of Civil Procedure 37 based on Plaintiffs' failure to preserve photographs/images used to elicit an identification from witness Paul Hawk. This Court referred the motion to Magistrate Judge Stephanie Dawkins Davis. (ECF No. 203.) Magistrate Judge Davis issued a Report and Recommendation ("R&R") on November 22, 2016, recommending that the Court grant the motion and impose sanctions against Plaintiff. (ECF No. 252.) Specifically, Magistrate Judge Davis recommends disallowing Plaintiffs from using any evidence stemming from their failure to preserve the images, including

disallowing the witness from testifying about the images in any manner. (*Id.* at 17.) Magistrate Judge Davis also recommends awarding Matouk the reasonable costs and attorney's fees he incurred bringing the motion. (*Id.*)

At the conclusion of her R&R, Magistrate Judge Davis advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. (*Id.* at 17-18.) She further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Davis. The Court therefore adopts the R&R.

Accordingly,

**IT IS ORDERED** that Defendant Timothy J. Matouk's motion for spoliation sanctions (ECF No. 202) is **GRANTED** and the Court imposes the sanctions set forth in Magistrate Judge Davis' R&R.<sup>1</sup>

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: January 6, 2017

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<sup>1</sup> Magistrate Judge Davis will determine the reasonable costs and attorney's fees to be awarded to Matouk as sanctions, as she is most familiar with the proceedings.

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, January 6, 2017, by electronic and/or U.S. First Class mail.

s/ Richard Loury  
Case Manager